

Watercraft Use Tax is a privilege tax imposed on the privilege of using, in this State, watercraft acquired by gift, transfer, or non-retail purchase after September 1, 2004. See 86 Ill. Adm. Code 153.105. (This is a GIL.)

October 3, 2005

Dear Xxxxx:

This letter is in response to your letter dated February 2, 2005, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at [www.tax.illinois.gov](http://www.tax.illinois.gov) to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

I have spoken with INDIVIDUAL from the Illinois Department of Revenue and he suggested that I write to you for clarification of the following proposed transfer.

I have owned an Illinois registered watercraft in my name personally for about 15 years. I now want to transfer that watercraft to a newly formed Illinois LLC that I am the sole owner of. Since the underlying ownership will not change there is no sale or consideration in this transfer. Am I subject to Illinois sales tax?

In the alternative if I were to add the name of my LLC in addition to my name on the Illinois registration then would that be considered a taxable transaction?

I only trying to do some estate planning and am not selling the boat.

Any clarification on this issue or suggestion on how to accomplish my estate tax planning would be greatly appreciated.

#### **DEPARTMENT'S RESPONSE:**

The Watercraft Use Tax is a privilege tax imposed on the privilege of using, in this State, watercraft acquired by gift, transfer, or non-retail purchase after September 1, 2004. See 86 Ill. Adm.

Code 153.105. The rate of tax is 6.25% of the purchase price for each watercraft that is subject to tax under the Law [35 ILCS 158/15-15]. However, the purchase price shall not be less than the fair market value of the watercraft on the date the watercraft is purchased or the date the watercraft is brought into the State, whichever is later, unless the purchaser can document that a different value is reasonable. See 86 Ill. Adm. Code 153.110.

In general, the addition of a second party to an Illinois title and registration is a transfer subject to watercraft use tax liability. This is because watercraft use tax is incurred on any non-retail “transfer” of watercraft, other than on the very limited exemptions set out under the Department’s regulations. See 86 Ill. Adm. Code 153.115.

The tax base on such a transfer would be the purchase price, but not less than the fair market value of the interest in the watercraft transferred. For example, if a person owning a 100% interest in a watercraft transfers one-half of that ownership interest to another party, then the tax base would be the purchase price paid, but not less than 50% (since a one-half interest was acquired) of the fair market value of the watercraft.

I hope this information is helpful. If you require additional information, please visit our website at [www.tax.illinois.gov](http://www.tax.illinois.gov) or contact the Department’s Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Edwin E. Boggess  
Associate Counsel

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